IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.R.UDAYABHANU

FRIDAY, THE 7TH SEPTEMBER 2007 / 16TH BHADRA 1929

Crl.Rev.Pet.No. 209 of 1999()

CC.144/1998 of JUDL.MAGISTRATE OF FIRST CLASS-II, THAMARASSERY

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REVN. PETITIONER:

JAMEELA,
D/O.MUHAMMED,
AGED 30 YEARS,
PULLANGODUMAL HOUSE,
PUTHUR AMSOM,
KODIYATHUR.

BY ADV. SRI.SUNNY MATHEW

RESPONDENTS:

PULIYARAKKAL HAMMED,
S/O.MUHAMMAD HAJI,
PUTHUR AMSOM,
KODIYATHUR.

BY PUBLIC PROSECUTOR, SRI.C.K.SURESH

THIS CRIMINAL REVISION PETITION HAVING BEEN FINALLY HEARD ON 07/09/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

K.R.UDAYABHANU, J.

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Crl.R.P.No.209 of 1999-C

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Dated this the 7th day of September, 2007

O R D E R

The revision petitioner is the de facto complainant, who had initiated proceedings with respect to the offences under Sections 354 and 323 of the Indian Penal Code vide C.C.No.144/1998 in which the accused stood acquitted.

2. The prosecution case is that on 03/01/1996, at about 6.30 p.m., while the de facto complainant was on her way home after work, at Puthur vayal, the accused outraged her modesty, caught hold of her hands, twisted her right thumb, squeezed her neck, hit her head against an arecanut tree and pushed her down.

3. The evidence adduced in the matter consisted of the testimony of PWs.1 to 4, Exts.P1 to P4 and MO.1.

4. As to the incident, the direct evidence is only that of PW.1, the de facto complainant. It was found that the F.I.S was lodged after 24

hours. It is seen that the court below found a lot of improvements in her evidence compared to the version before the police contained in Ext.P1 F.I.S. As is pointed out what is mentioned is that she was caught hold of on the way home and at the spot attempted to take her to the adjacent plantain garden for sexual intercourse. But in her deposition, her version is that she was lifted and taken to the plantain garden, laid her there and her mouth was stuffed with the scarf that she had put on the head etc. As noted by the court below, the scene of occurrence as per her version is not the same as is mentioned in the F.I.S.

In the circumstances, and in view of the constraints of the appellate jurisdiction against acquittal, I find no interference is called for. The criminal revision petition is dismissed.

K.R.UDAYABHANU,
Judge

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K.R.UDAYABHANU, J.

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Crl.R.P.No.209 of 1999-C

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O R D E R

7th September, 2007